

CODIFIED ORDINANCES OF LOUDOUN COUNTY

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TITLE SIX- Zoning

EDITOR'S NOTE: Because it is separately published, the County Zoning Code, being the ordinance effective June 21, 1972, is not included in these Codified Ordinances. Copies may be inspected at the Department of Planning, Zoning and Community Development in the County Administration Building in Leesburg.

A schedule of fees to be collected for the services of the County in the administration of the Zoning Code is established from time to time by the Board of Supervisors. Copies of the latest such schedule may be obtained from the Department.

PART TWELVE - PLANNING AND ZONING CODE

TITLE TWO - Planning

- Chap. 1220. Erosion Control.
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Chapter 1220 Erosion Control

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| <p>1220.01 Short title; incorporation of Virginia Erosion and Sediment Control Law and Virginia Erosion and Sediment Control Regulations.</p> <p>1220.02 Purpose.</p> <p>1220.03 Authority.</p> <p>1220.04 Application of chapter to agricultural, horticultural and forest lands. (Repealed)</p> <p>1220.05 Definitions.</p> <p>1220.06 Land-disturbing activities.</p> | <p>1220.07 Monitoring and compliance.</p> <p>1220.08 Fees.</p> <p>1220.09 Application to incorporated towns and State and Federal agencies.</p> <p>1220.10 Effect on prior activities. (Repealed)</p> <p>1220.11 Effective date.</p> <p>1220.12 Violations; remedies; civil penalty; notice.</p> <p>1220.99 Penalty.</p> |
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CROSS REFERENCES

Soil Conservation Districts Law - see Code of Virginia §§ 10.1-506 to 10.1-559

Virginia Erosion and Sediment Control Law (VESCL) - see

Code of VA, Title 10.1, Chapter 5, Article 4, as amended

Code of VA §§ 10.1-560 et seq.

Code of VA §§ 10.1-1100, et seq.

Code of VA §§ 54.1-1400 et seq.

Code of VA §§ 54.1-400 et seq.

Virginia Administrative Code

Virginia Erosion and Sediment Control Regulations (4VAC50-30), as amended

Virginia Erosion and Sediment Control Handbook (VESCH)

Loudoun County Facilities Standards Manual (FSM)

Department of Planning - see ADM. Ch. 238

Planning Commission - see ADM. Ch. 262

Drainage in subdivisions - see P. & Z. 1245.07

1220.01 SHORT TITLE; INCORPORATION OF VIRGINIA EROSION AND SEDIMENT CONTROL LAW AND VIRGINIA EROSION AND SEDIMENT CONTROL REGULATIONS.

This chapter shall be known as the "Loudoun County Erosion and Sediment Control Ordinance." The following law sections are an edited text version of the Virginia Erosion and Sediment Control Law (Title 10. 1, Chapter 5, Article 4 of the Code of Virginia as amended.

The following regulatory sections of the Virginia Erosion and Sediment Control Regulations (4VAC50-30) as amended by the Virginia Soil and Water Conservation Board through 1995, effective March 22, 1995 are incorporated herein.

This chapter also incorporates the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, or as amended, as a technical guide which contains certain guidelines, standards, criteria, techniques and methods for the control of erosion and sediment resulting from land-disturbing activities, with modifications (a), (b) and (c), as follow, in the effort to meet the requirements dictated by the Virginia Erosion and Sediment Control Law (VESCL) and the Virginia Erosion and Sediment Control Regulations (VESCR). In addition, the "Handbook Minimum Standards", as described in VESCR 4VAC50-30-40, or as amended, shall be adopted and enforced to establish minimum design and implementation standards for control measures in the effort to control erosion and sedimentation from land-disturbing activities in Loudoun County.

- (a) Standard & Specification #1.05 Straw Bale Barrier and #1.07 Brush Barrier. These practices are not to be used without specific authorization from the Director of the Department of Building and Development, with the exception that brush barriers may be used as an interim control prior to the installation of the first phase of the perimeter erosion and sediment controls.
 - (b) Standard & Specification #1.40 Level Spreader. This practice is not to be used without specific authorization from the Director of the Department of Building and Development.
 - (c) Standard & Specification #3.13 Temporary Sediment Trap. A pipe outlet sediment trap shall be required for drainage areas of one to three acres. Storage volume calculations shall be based on 134 cubic yards per acre.
- (Ord. 95-08. Passed 9-20-95; Ord. 05-01. Passed 1-11-05.)

1220.02 PURPOSE.

The purpose of this chapter is to prevent the degradation of properties, stream channels, waters and other natural resources of Loudoun County by establishing requirements for the control of soil erosion, sediment deposition and stormwater runoff and by establishing procedures whereby these requirements shall be administered and enforced and contribute thereby to the health, safety and general welfare of the citizens of Loudoun County.

(Ord. 95-08. Passed 9-20-95; Ord. 05-01. Passed 1-11-05.)

1220.03 AUTHORITY.

This Chapter and reference to the Virginia Erosion and Sediment Control Handbook are authorized by the Code of Virginia, Title 10.1. Chapter 5. Article 4 (§§ 10.1-560 et seq.) known as the Virginia Erosion and Sediment Control Law and Section (4VAC50-30) of the Virginia Administrative Code, known as the Virginia Erosion and Sediment Control Regulations.

(Ord. 95-08. Passed 9-20-95.) (Ord. 05-01. Passed 1-11-05.)

1220.04 APPLICATION OF CHAPTER TO AGRICULTURAL, HORTICULTURAL
AND FOREST LANDS. (REPEALED)

(EDITOR'S NOTE: Section 1220.04 was repealed by Ordinance 90-04, passed May 7, 1990.)

1220.05 DEFINITIONS.

As used in this chapter:

- (a) "Agreement in lieu of a plan" means a contract between the plan approving authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence; this contract may be executed by the plan-approving authority in lieu of a formal site plan.
- (b) "Applicant" means the person legally responsible for the land-disturbing activity for which a permit is requested, and shall include the owner of the property on which such land-disturbing activity is proposed to be accomplished as well as any contractor, agent or other person who, by virtue of contractual employment or other relationship to the owner of the property on which such land-disturbing activity is proposed to be accomplished, is or will be in actual or effective control of all or a portion of the land-disturbing activity for which an application is or has been made.
- (c) "Approved plan" means that plan approved by the Director of the Department of Building and Development by his issuance of a land-disturbing activity permit, which plan contains the permittee's proposed methodology for controlling erosion, sedimentation and storm water runoff resulting from his proposed land-disturbing activity.
- (d) "Board" means the Virginia Soil and Water Conservation Board.
- (e) "Certified Inspector" means an employee or agent of a program authority who holds a certificate of competence from the Board in the area of project inspection or is enrolled in the Board's training program for project inspection and successfully completes such program within one year of enrollment.
- (f) "Certified Plan Reviewer" means an employee or agent of a program authority who holds a certificate of competence from the Board in the area of plan review, is enrolled in the Board's training program for plan review and successfully completes such program within one year of enrollment, or is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article I (Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1.
- (g) "Certified Program Administrator" means an employee or agent of a program authority who holds a certificate of competence from the Board in the area of program administration or is enrolled in the Board's training program for program administration and successfully completes such program within one year of enrollment.
- (h) "Clearing" means any activity which removes a substantial amount of vegetative ground cover.
- (i) "Director" means the Director of the Department of Building and Development or his designated agent.
- (j) "Erosion" as applied to soil, means the disintegration, detachment, carrying away or wearing away of the land surface by running water, wind and/or other natural agents.

- (k) "Erosion impact area" means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into State waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.
- (l) "Excavating" means any digging, scooping or other method of removing earth materials or a substantial amount of such earth materials.
- (m) "Filling" means any depositing or stockpiling of soil or earth materials.
- (n) "Grading" means any excavating or filling of earth materials or any combination thereof.
- (o) "Land-disturbing activity" means any land change which may result in soil erosion from water or wind and the movement of sediments into State waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:
 - (1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
 - (2) Individual service connections;
 - (3) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
 - (4) Surface or deep mining;
 - (5) Repair or rebuilding of the tracks, rights of way, bridges, communication facilities and other related structures and facilities of a railroad company;
 - (6) Disturbed land areas of less than 5,000 square feet in preparation for commercial or industrial uses, single-family attached units or multifamily units;
 - (7) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
 - (8) Emergency work to protect life, limb or property, and emergency repairs, provided that if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the Director of the Department of Building and Development when applicable;
 - (9) Installation, maintenance or repair of any underground public utility line, provided that such land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;
 - (10) Exploration or drilling for oil and gas, including the well site, roads, feeder lines and off-site disposal areas; (Ord. 95-08. Passed 9-20-95.)
 - (11) Tilling, planting or harvesting of agricultural, horticultural or forest crops or livestock feedlot operations, including engineering operations, as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation. However, this exemption shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially

or naturally, in accordance with the provisions of Chapter 11 (Sections 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia, or is converted to bona fide agricultural or improved pasture use as described in Subsection B of Section 10.1-1163 of the Code of Virginia, or to filling with earth materials imported from off-site.

- (12) Agricultural engineering operations, including, but not limited to, the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with provisions of the Dam Safety Act, Article 2 (Sec. 10.1-604 et seq.) of Chapter 6 of Title 10.1, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation. However, this exemption shall not apply to filling with earth materials imported from off-site. (Ord. 00-06. Passed 6-5-00.)
- (13) Disturbed areas of less than 10,000 square feet in size for all uses not previously referenced.
- (p) "Land-disturbing permit" means a permit issued by the Loudoun County Department of Building and Development for the clearing, filling, excavating, grading, and transporting of soil or for any combination thereof or for any purpose set forth herein.
- (q) "Local erosion and sediment control program" means an outline of the various methods employed by a district or locality to regulate land-disturbing activities, and thereby minimize erosion and sedimentation in compliance with the State program, and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement and evaluation.
- (r) "Owner" means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.
- (s) "Permittee" means an applicant whose application has been approved by the Director of the Department of Building and Development and who has been issued a land-disturbing activity permit by the Director of the Department of Building and Development.
- (t) "Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the commonwealth, any interstate body, or any other legal entity.
- (u) "Plan-approving authority" means the Department of Building and Development, which is responsible for determining the adequacy of the Erosion and Sediment Control Plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.
- (v) "Preliminary zoning clearance" means written certification from the County Department of Building and Development, or a town government, where appropriate, that the property which is the subject of the certification has been reviewed for compliance with the appropriate zoning ordinance and been given preliminary approval.
- (w) "Program Authority" means Loudoun County, which has adopted a soil erosion and sediment control program approved by the Virginia Soil and Water Conservation Board.
- (x) "Responsible Land Disturber" means an individual from the project or development team, who will be in charge of and responsible for carrying out a land-disturbing activity

covered by an approved plan or agreement in lieu of a plan, who (1) holds a Responsible Land Disturber certificate of competence, (2) holds a current certificate of competence from the Virginia Soil and Water Conservation Board in the areas of Combined Administration, Program Administration, Inspection or Plan Review, (3) holds a current Contractor certificate of competence for erosion and sediment control, or (4) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (§§ 54.1400 et seq.) of Chapter 4 of Title 54.1.

- (y) "Sediment" means solid material, both mineral and organic, that is in suspension, is being transported or has been moved from its site of origin by air, water, gravity or ice and has come to rest on the earth's surface either above or below sea level.
- (z) "Single-family residence" means a noncommercial dwelling that is occupied exclusively by one family.
- (aa) "Soil and Water Conservation District" means the Loudoun Soil and Water Conservation District, organized in accordance with the provisions of Title 10.1, Chapter 5, Article 3 of the Code of Virginia.
- (bb) "State waters" means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction.
- (cc) "Stockpile" means the acceptance, collection, accumulation or aggregation of soil or dirt from on-site as well as off-site sources. Stockpiles shall not be located in environmentally sensitive areas such as steep slopes or floodplains.
- (dd) "Town" means an incorporated town of Loudoun County.
- (ee) "Transporting" means any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

(Ord. 95-08. Passed 9-20-95; Ord. 05-01. Passed 1-11-05.)

1220.06 LAND-DISTURBING ACTIVITIES.

(a) Permit Required. No person shall conduct, or authorize another to conduct, any land-disturbing activity in the County, unless such person or his authorized agent first obtains from the Director of the Department of Building and Development, and maintains in good standing, a permit entitling such person and any contractor or agent of such person to conduct such activity. No permit involving land-disturbing activity will be issued without an approved erosion and sediment control plan by Loudoun County and certification that the plan will be carried out by the designated Responsible Land Disturber. Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all associated permits required by Federal, State and local laws and regulations shall be obtained and evidence of such permits submitted to the County. The approval of an erosion and sediment control plan shall not relieve the owner or applicant of any applicable local, State or Federal permit requirements. However, if any person conducts, or authorizes another to conduct, any land-disturbing activity involving land under the jurisdiction of more than one local erosion control program, such person may, in lieu of obtaining a permit from the Director, obtain a permit

from the Virginia Soil and Water Conservation Board. In the latter case, verification that a State permit has in fact been issued, and notice of any condition applying thereto, shall be filed with the Director before the land-disturbing activity applicable thereto commences.

Electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies and railroad companies shall file general erosion and sediment control specifications annually with the Virginia Soil and Water Conservation Board for review and written comments. The specifications shall apply to construction, installation or maintenance of electric transmission, natural gas and telephone utility lines and pipelines and the construction of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company.

(b) Permit Application. Application for the permit required by this section to be obtained from the Director of the Department of Building and Development shall be made to such Director on forms furnished by him. No application for such permit shall be made by any applicant, or accepted by the Director, unless such application is accompanied, where appropriate, by a valid preliminary zoning clearance issued as to the property which is the subject of such application. Such application shall be made by, or on behalf of, the owner of the property on which it is proposed to engage in the land-disturbing activity for which the application is made, and such owner shall be deemed responsible for the acts of himself and of any other person engaging in any part of such land-disturbing activity. Such responsibility shall be in addition to the responsibility which this chapter attaches to any applicant or person other than such owner.

(c) Erosion and Sediment Control Plan. The application for a grading permit shall be submitted to and reviewed by the Loudoun County Department of Building and Development, which is the plan-approving authority. The application for a permit shall include a proposed erosion and sediment control plan for the proposed land-disturbing activity and certification from the applicant that the plan will be followed. In addition, as a prerequisite to approval of an Erosion and Sediment Control Plan, or an "agreement in lieu of a plan," the person responsible for carrying out the plan, or the "Agreement" shall provide the name of an individual holding a certificate of competence, who will be in charge of and responsible for carrying out the approved plan. This designee shall be known as the "Responsible Land Disturber." Such erosion and sediment control plan shall propose that a minimum of land-disturbing activity take place in any flood plain and that where such is required, the land-disturbing activity shall be conducted as not to interfere with or otherwise change, other than temporarily, the normal flood flow on the land affected by such activity. The Erosion and Sediment Control plan shall follow the criteria, guidelines and specifications set forth in the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, as amended, and, where the Director of the Department of Building and Development deems it appropriate, such plan shall provide for sequentially staging grading operations over time, so that the area and duration of exposure to the elements are minimized. In addition, a two-phase erosion and sediment control plan will be required that specifically addresses the stages of construction. This two-phase plan shall be designed to ensure adequate erosion and sediment control protection from the beginning of a project until its completion. The first phase of the plan will describe the conservation measures required during the initial land clearing and rough grading and the second phase plan will describe the conservation measures required once the storm sewer system is installed and functional and the roads are in a

stabilized condition. A detailed narrative must accompany the plan that addresses the topographical and site drainage features and the stage of construction at which the transition is made from the initial plan to the secondary plan. If the plans show stormwater management facilities, it must be clearly stated when such facilities shall be constructed. The use of diversion berms to break up drainage divides to support the use of sediment traps as opposed to sediment basins will not be allowed if such diversion berms inhibit the constructability of the site.

(d) Tree Preservation, Historic and Archaeological Resources and Environmentally Sensitive Areas. The application for a grading permit shall include detailed information on the erosion and sediment control plan and explained in the narrative where there are preservation areas, such as tree preservation areas, historic and archaeological resources, and cemeteries, where such areas are governed by proffers or State or Federal regulations, and areas voluntarily determined for reservation. Such sites to be reserved shall be demarcated with Super Silt Fence as described in the Loudoun County Facilities Standards Manual, or other approved commercially reasonable measures as described in the Virginia Erosion and Sediment Control Handbook to ensure that these resources shall not be impacted during development. Environmentally sensitive areas such as wetlands, steep slopes and floodplains shall be delineated on the erosion and sediment control plan, with appropriate erosion and sediment control measures provided to protect these resources during the course of development.

(e) Erosion Impact Area. The Director of Building and Development may require an erosion and sediment control plan and a grading permit for any land deemed to be an erosion impact area.

(f) Financial Guarantee of Performance. The application for a permit shall include a financial guarantee that the land-disturbing activity will be carried out in a manner consistent with the application, including any amendment to such application. Such financial guarantee shall take the form of a reasonable performance and maintenance bond, cash escrow, letter of credit, or any combination of the same, or any other legal arrangement acceptable to the County. Such bond or such other financial guarantee shall incorporate a right in the Director of the Department of Building and Development to enter upon the property for the purpose of utilizing such financial guarantee to implement the proposed soil and sediment control plan of the applicant or to take whatever other measures are necessary to achieve the goals of such plan where it appears that the applicant is not performing, or that he will not perform, in substantial compliance with the terms of such plan. If the County takes such conservation action upon such failure by the permittee, the County may collect from the permittee for the difference should the amount of the reasonable cost of such action exceed the amount of the security held. No permit shall be granted by the Director unless he approves of the proposed financial guarantee of performance and/or maintenance proposed by the applicant. Within sixty days of the achievement of adequate stabilization of the land-disturbing activity, as determined by the Department of Building and Development in any project or section of a project, and after the applicant has applied in writing to the Department of Building and Development for release of such security for performance and submitted any associated administrative fee for such release, the bond, cash escrow, letter of credit or other legal arrangement,

or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section. These requirements are in addition to all other provisions of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.

(g) Right to Monitor Land-Disturbing Activities. The application for a permit shall include a provision for appropriate agents and employees of the County Government, at reasonable times, to go upon the property on which permission has been sought to conduct land-disturbing activities and to monitor such activities. In addition, the Director of Building and Development may require, as a condition for approval of an application for, or as an amendment to a permit, monitoring and reporting to the Director from the person responsible for carrying out the plan to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment.

(h) Application Procedure and Review. Upon receipt of the application by the Director of the Department of Building and Development, it shall be referred to the Loudoun Soil and Water Conservation District, or town government where appropriate, for review. Upon completion of review by such District or such town government, the application shall be returned to the Director of the Department of Building and Development, and after receiving the review and recommendation of such District and/or town government and after the posting of a financial guarantee as required by this chapter, but in any event within forty-five days after first officially receiving such application, the Director shall render a final written decision to the applicant either approving or denying the application on the basis of whether or not the plan meets the criteria, guidelines and specifications of the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, as amended, and whether or not the other applicable requirements of this chapter have been met. If the Director denies the application, he shall state in his written decision the specific reasons for such denial and shall specify such modifications, terms and conditions as would permit approval of the plan. Where no final decision is rendered by the Director within such forty-five day period, the application shall be deemed approved and the applicant authorized to proceed with the proposed land-disturbing activity, provided that all fees have been paid as required in Section 1220.08. Where the final written decision of the Director has adversely affected the rights, duties or privileges of the applicant, such applicant may, within thirty days from the date of such final decision of the Director, file a writ of certiorari with the Circuit Court of the County for review of such decision.

(i) Variance Requirements. The Loudoun County Department of Building and Development may waive or modify any of the regulations that are deemed inappropriate or too restrictive for site conditions by granting a variance. A variance must be requested by the applicant in writing and responded to by the Director of Building and Development or his designee, in writing to be considered approved. A variance may be granted under the following conditions:

- (1) At the time of erosion and sediment control plan submission, an applicant may request a variance to be incorporated in the erosion and sediment control plan. The applicant shall explain the reasons for requesting the variance in writing. Specific

variances, which have been approved by the Department, shall be documented in the plan.

- (2) During construction, the person responsible for implementing the approved Erosion and Sediment Control Plan may request a variance in writing from the Department. The Department shall forward a written approval or denial of said request. If the Department does not approve a variance request within 10 days of receipt of the request, the request shall be considered to be denied. Following any denial the applicant may resubmit a variance request with additional information.

Any appeal to a final decision of the County shall follow the process as described in the Code of Virginia § 610.1-568 Appeals. Final decisions of the County shall be subject to review by the court of record of the county provided that an appeal is filed within thirty days from the date of any written decision adversely affecting the rights, duties or privileges of the person engaging in or proposing to engage in land-disturbing activities.

(j) Application Fee. The Director of Building and Development shall charge a reasonable fee as established by the Board of Supervisors to defray the cost of program administration.

(k) Duration of Permit. Any permit granted pursuant to this section shall be in effect for no longer than three years after the date of issuance. In addition, any permit granted by this section shall automatically expire as of the date of expiration for, or termination of any financial guarantee tendered by the applicant. If a permitted project is not completed within the three-year time frame, then the applicant must re-apply according to the procedures as described in Section 1220.06 Land Disturbing Activities or appeal in writing to the Director of the Department of Building and Development for an extension of the grading permit period not to exceed an additional six months. Once a grading permit has been approved in writing by the County, the applicant shall have a period of six months (180 days) from the date of approval to submit and receive County approval of collateral for the project or the permit shall be considered expired.

(l) Re-application. Any applicant whose application has been denied by the Director may re-apply to the Director at any time. Such re-application shall follow the same procedures and meet the same requirements as are otherwise set forth in this chapter relative to an initial application, and there shall be no additional fee requirement for such re-application, except that there shall be charged such fees as are provided in Section 1220.08 for initial applications for a second or greater number of re-applications involving the same, or substantially the same, proposed land-disturbing activity.

(m) Relation to Permit to Subdivision Regulations and to Zoning Code. Notwithstanding any other section of this chapter, no acceptance or application for a permit shall be required to be given for a proposal to conduct a land-disturbing activity in connection with the development of a subdivision under the County Subdivision Regulations, as amended, or a planned development under Article 7 of the County Zoning Code, as amended, or a town subdivision or similar ordinance, where appropriate, until such time as a preliminary plat (if required by such Subdivision Regulations or

town subdivision ordinance) has been approved or until such time as site development plans and reports (if required by such Subdivision Regulations or Zoning Code or town ordinance) have first been approved.

(n) Relation of Permit to Other Governmental Review of Land Development. In addition to the requirements set forth in subsection (l) hereof, if a permit required under this chapter is a prerequisite to approval by any department or agency of the County Government or any town for any proposed development of land, and if upon final review by any such department or agency or town, such proposed development is disapproved, such land-disturbing permit shall thereafter be subject to revocation by the Director of the Department of Building and Development.
(Ord. 95-08. Passed 9-20-95; Ord. 05-01. Passed 1-11-05.)

1220.07 MONITORING AND COMPLIANCE.

(a) Periodic Inspections. The Department of Building and Development, through a certified Virginia Department of Conservation and Recreation Erosion and Sediment Control Inspector, shall conduct inspections of any land-disturbing activity for which a grading permit has been issued. The inspector shall assess compliance with the approved erosion and sediment control plan and County Codified Ordinances as well as the Virginia Erosion and Sediment Control Law and Regulations. The inspector shall inspect site projects in accordance with the Department of Building and Development Erosion and Sediment Control Program Enforcement Protocol, or as amended, and "Board" approved Alternative Inspection Program in accordance with the Virginia Erosion and Sediment Control Regulations (4VAC50-30-60B).

(b) Procedure in the Event of Noncompliance. If the Director of the Department of Building and Development, or his designee, determines that the permittee has failed to comply with the approved plan, such Director, or his designee, shall immediately serve or have served upon the permittee, by hand delivery or by registered or certified mail, to the address specified by the permittee in his permit application, a notice to comply. Such notice shall set forth specifically the measures needed to come into compliance with such plan and shall specify the time within which such measures shall be completed. If the permittee fails to comply within the time specified or to initiate the required corrective action within a reasonable time after such notice, he shall be subject to immediate revocation of his permit by action of the Director and he shall, further, be deemed in violation of this chapter and, upon conviction, shall be subject to the penalties provided in this chapter. In addition, upon failure of the permittee to comply within the time specified, or to initiate the required corrective action within a reasonable time after such notice, the Director shall have the right, at his sole discretion, to immediately enforce the terms of the financial guarantee of performance and maintenance given by the permittee.

Notwithstanding any other provision of this chapter, whenever the Director determines that there has been a failure to comply with a notice of compliance issued under this section, the Director may order or recommend that any other permit associated with the grading permit, or license issued to the permittee, or to any other party, the activity to be performed under which can properly be considered to be dependent on or substantially related to the proper execution of the approved plan,

be revoked until such time as the permittee is once again determined by the Director to be in compliance with the approved plan, and this provision shall be deemed authority for any appropriate official of the County Government, or any town, where appropriate, to revoke such other permit or license. Such other permits or licenses shall include, but are not necessarily limited to, building permits, zoning permits and clearances, health permits and other land-disturbing activity permits. In the event of the revocation of a grading permit or the issuance of a Stop Work Order, the owner or applicant shall be required to re-apply for the grading permit and submit the required grading permit fees based on fee schedules at the time of revocation or the issuance of a Stop Work Order for the grading permit, or as amended, and successfully pass site compliance inspection.

(c) Procedure in the Event of Noneffectiveness. At any time after the issuance of a permit under this chapter, the Director of the Department of Building and Development may change or amend the approved plan in either or both of the following cases:

- (1) Where inspection has revealed the inadequacy of the plan to satisfy applicable regulations; or
- (2) Where the permittee finds that, because of changed circumstances or for other reasons, the approved plan cannot be effectively carried out, and proposed amendments to the approved plan, consistent with the requirements of this chapter, are agreed upon by the Director and the permittee.

(Ord. 95-08. Passed 9-20-95; Ord. 05-01. Passed 1-11-05.)

1220.08 FEES.

A schedule of fees shall apply to applications and certain re-applications submitted or issued pursuant to this chapter. This schedule will be published and updated, as needed, by the Department of Building and Development.

(Ord. 95-08. Passed 9-20-95; Ord. 05-01. Passed 1-11-05.)

1220.09 APPLICATION TO INCORPORATED TOWNS AND STATE AND FEDERAL AGENCIES.

(a) Incorporated Towns. This chapter shall apply to all incorporated towns within Loudoun County. Any town within the County boundaries may adopt and administer an erosion and sediment control program provided the Virginia Soil and Water Conservation Board approves the program. All incorporated towns within the County that do not have Board approved erosion control programs shall be governed by the County Erosion and Sediment Control Program.

(b) State and Federal Agencies. Land-disturbing activity conducted by, or on behalf of, any State or Federal agency shall not come under the purview of this chapter, except as may be mutually agreed upon between the governing body of the County and such State or Federal agency.

(Ord. 90-04. Passed 5-7-90; Ord. 05-01. Passed 1-11-05.)

1220.10 EFFECT ON PRIOR ACTIVITIES. (REPEALED)

(EDITOR'S NOTE: Section 1220.10 was repealed by Ordinance 90-04, passed May 7, 1990.)

1220.11 EFFECTIVE DATE.

The effective date of this chapter is June 17, 1975.

(Ord. 95-08. Passed 9-20-95; Ord. 05-01. Passed 1-11-05.)

1220.12 VIOLATIONS; REMEDIES; CIVIL PENALTY; NOTICE.

(a) Stop Work Order. Upon receipt of a sworn complaint of a substantial violation of this chapter from the Director of the Department of Building and Development, or his designee, a representative of the program authority, the chief administrative officer of the County, or his designee, may issue an order requiring that all or part of the land-disturbing activities on a site be stopped until the corrective measures specified in the order have been fully satisfied. If land-disturbing activities have commenced without an approved plan as provided in Section 1220.06, the chief administrative officer, or his designee, shall issue a Stop Work Order and all of the land-disturbing activities must cease until an approved Erosion and Sediment Control plan and any required permits are obtained. Where the alleged violation is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued whether or not the alleged violator has been issued a notice to comply under this chapter. Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply issued under this chapter. The order shall be served in the same manner as a notice to comply and shall remain in effect for up to seven days. Upon the determination that appropriate corrective measures have been undertaken, the order shall be lifted immediately. If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the Chief Administrative Officer or the Director of the Department of Building and Development may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of Loudoun County. The owner may appeal the issuance of an order to the Circuit Court of Loudoun County. Any person violating or failing, neglecting or refusing to obey an order issued by the Chief Administrative Officer or the Director of the Department of Building and Development may be compelled in a proceeding instituted in the Circuit Court of Loudoun County to obey the same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted. Nothing in this section shall prevent the Chief Administrative Officer or the Director of the Department of Building and Development from taking any other action specified in this section.

(b) Civil Damages. In addition to the penalty provided in Section 1220.99, any person who violates this chapter may be liable to the County in a civil action for damages, as appropriate.

(c) Civil Charges. With the consent of any person who has violated or failed, neglected or refused to obey any condition of a permit, the Director of Building and Development may order the

payment of civil charges for violations in specific sums, not to exceed two thousand dollars (\$2,000). Such civil charges shall be instead of any appropriate civil penalty which could be imposed.

(d) Injunctions and Other Relief. Notwithstanding any other relief or remedy available under this chapter, the Director of the Department of Building and Development may apply to the Circuit Court of the County for injunctive or such other equitable relief as might be appropriate in the case of a violation or threatened violation of any of the provisions of this chapter, without the necessity of showing that there does not exist an adequate remedy at law.

(e) Notice of Violation. In no case shall the Director bring legal action to enforce the provisions of this chapter unless and until he has first given, or made diligent effort to give, specific notice to the applicant or permittee, as the case may be, of any violation of this chapter for which such legal or equitable relief is to be sought. Such notice shall give the applicant or permittee a reasonable opportunity under the particular circumstances to correct the situation before enforcement action is brought.

(f) Cumulative Remedies. The remedies provided for in this chapter shall be cumulative in the sense that the imposition of, or attempt to impose, one remedy shall not act as a restriction on any right to impose, or attempt to impose, any other remedy authorized by this chapter.
(Ord. 95-08. Passed 9-20-95; Ord. 05-01. Passed 1-11-05.)

1220.99 PENALTY.

Whoever violates any of the provisions of this chapter and fails to correct it pursuant to an order of the Director of Building and Development within the specified time frame is guilty of a Class 1 misdemeanor and shall be fined not more than two thousand, five hundred dollars (\$2,500) or imprisoned not more than twelve months, or both, for each violation.
(Ord. 95-08. Passed 9-20-95; Ord. 05-01. Passed 1-11-05.)